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February 29, 1996

The Review Board  
Federal Communications Commission  
2000 L Street N.W. 2nd fl.  
Washington, D.C. 20554

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Dear Colleagues:

RE: Trinity Broadcasting of Florida, Inc. (MM Docket No. 93-75)

Yesterday, the Spanish American League Against Discrimination (SALAD) filed its Reply to Exceptions. SALAD has learned that at least one service copy was missing pages one and two. Those pages are appended hereto.

Respectfully submitted

  
David Honig  
Counsel for SALAD

Attachment

cc: All Parties

/dh

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INTRODUCTION

1. The Spanish American League Against Discrimination ("SALAD") respectfully submits its reply to the "Exceptions to Initial Decision" of Trinity Broadcasting of Florida, Inc. and Trinity Broadcasting Network ("Trinity Exceptions") and the "Consolidated Brief and Exceptions of National Minority T.V., Inc." ("NMTV Exceptions").<sup>1/</sup>

2. In its November 30, 1995 "Statement in Lieu of Exceptions", SALAD stated that it "considers the Initial Decision, [10 FCC Rcd 12020 (ALJ, 1995)] (I.D.) to be extraordinarily comprehensive and well reasoned."

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<sup>1/</sup> Only one material point in NMTV's Exceptions is not reflected in Trinity's Exceptions. NMTV quarrels with the ALJ's statement that "to this very day, TTI/NMTV has never developed, much less implemented, any plan to 'break away' from its parent company, TBN." I.D. at 12057 ¶305 (emphasis added). See NMTV Exceptions at 24 ¶¶37-38. Obviously, the ALJ was referring not to the date of I.D., but to the date the record closed, the last "very day" about which the record told him anything. NMTV contends that since the I.D., NMTV "has taken numerous steps to supplement its always-existing decisional autonomy with financial, technical and operational independence", referring to the Consolidated Opposition filed by Mayville Communications, Inc, an applicant to acquire a full power television permit in Mayville, Wisconsin. The Commission is respectfully referred to the Petition to Deny that application filed November 6, 1995 by the League of United Latin American Citizens ("LULAC") and to LULAC's December 13, 1995 Reply to Opposition to Petition to Deny. Those pleadings demonstrate that Mayville is nothing but another in a long line of sham companies, cynically constructed by Trinity to evade the multiple ownership rules.

The Mayville episode demonstrates nothing except that even after a hearing, Trinity's behavior shows it to be utterly unworthy of Commission confidence that it will ever respect the ownership rules. The best that can be said is that two years of litigation has inspired Crouch, while under intense public scrutiny, to graduate from a named promoter of an undisclosed minority front to an undisclosed promoter of an undisclosed minority front. If an applicant's rule compliance while under close but nonhearing Commission review is unpredictable of future compliance (NBMC v. FCC, 775 F.2d 342 (D.C. Cir. 1985)), what is to be said of an applicant's rule noncompliance while under even closer, hearing-status Commission review?

3. This was not a close case. The I.D. correctly found that TBN's conduct was "intentional", and that NMTV was created by TBN's President, Paul Crouch, as a "'sham' corporation to take advantage of the minority preference." Id. at 12061 ¶330.

4. SALAD endorses that portion of Glendale Broadcasting Company's "Reply to Exceptions" which addresses Trinity's qualifications. Rather than repeating points made therein, SALAD -- the public intervenor and original petitioner to deny in this proceeding -- will focus this Reply on matters of policy likely to be of particular interest to the Commission.<sup>2/</sup>

**I. NEITHER THE 1985 COMMISSION, NOR COMMISSIONER PATRICK, MEANT TO OPEN THE DOOR TO SHAM APPLICATIONS**

5. During the Wilmington and predesignation Miami litigation, Trinity's theory of the case was that NMTV's ownership structure was genuine and that Trinity never controlled NMTV.<sup>3/</sup> MMB Ex. 353, pp. 4-22. After designation, Trinity's theory of the case changed. Now it contends that the Commission openly invited

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<sup>2/</sup> These are the last briefs anyone will file with the Review Board. SALAD congratulates the Board on the occasion of its demise. By providing authoritative decisions which frequently obviated the need for Commission intervention, by effecting rapid interlocutory review, and by illuminating the law for ALJs and parties alike, the Board has done much since 1962 to contribute to the expeditious and successful resolution of hundreds of Commission proceedings. History will record that the Board was able to close its doors because it had accomplished its job all too well.

<sup>3/</sup> Trinity continues to state that NMTV's structure is genuine, but the overwhelming evidence in this case has now rendered those arguments rather feeble. This is apparent from even cursory examination of Trinity's last best claim to NMTV's genuineness: that NMTV's directors had (at least on paper) the "power" to remove Crouch. Trinity Exceptions at 10. The underlying premise -- that the "power" to remove Crouch was genuine -- must be rejected based on overwhelming evidence to the contrary. Duff was a Trinity employee, Crouch's own administrative assistant. It is fatuous to suggest that she would ever have voted to remove her own boss from NMTV.